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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,545	02/06/2004	Andy Wachter	WACHTR 3.0-001	6473

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EXAMINER

KARLS, SHAY LYNN

ART UNIT	PAPER NUMBER
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1744

MAIL DATE	DELIVERY MODE
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07/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/773,545	Applicant(s) WACHTER, ANDY	
	Examiner Shay L. Karls	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-13, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-13, 15-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/30/07 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner et al. (USPN 5599225).

Warner teaches a brush comprising a shaft (35) with a first end and a second end. The first end is smooth and the second end comprises bristles (23, 24) extending outwardly (claim 5).

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There is a locking hub (51-53) disposed at the first end of the shaft for and the hub is adapted to engage a power tool (col. 2, lines 13-15 and 43-48, the stem is flattened to provide a positive attachment to Jacob's style chuck on a drive mechanism or power tool). The bristles are made from nylon (col. 4, lines 30-33) (claim 8). The shaft is comprised of two strands of intertwined steel (27, 28) (claim 9). Warner teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Warner so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

Claims 13, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner et al. ('225) in view of Meyer (USPN 2633592).

Warner teaches all the essential elements of the claimed invention however fails to teach a protective coating on the second end of the shaft (claim 13) and a top element or wedge with a contoured face attached to the shaft for forcing the bristles in a direction away from the first end (claims 15-16). Meyer teaches a brush comprising a twisted shaft have a first plurality of bristles (12) extending outwardly. The shaft has a first end for attaching to a handle and a second end which is soldered (16) to bind the twisted shaft together. The soldered end has a contoured face attached to the shaft which forces a second plurality of bristles (18) in a direction away from the first end. It would have been obvious to one of ordinary skill in the art at the time the invention

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was made to modify the second end of Warner so that it comprises a soldered end as taught by Meyer to form a protective coat to prevent the shaft from scratching the surface to be cleaned (col. 2, lines 10-15). Additionally, having a plurality of second bristles angled in a direction away from the first end of the brush allows the brush to clean surfaces perpendicular to each other at the same time, such as the bottom and sides of a bottle (col. 2, lines 19-22).

Claims 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodhouse (USPN 5488747).

Woodhouse teaches a brush comprising a shaft (12) with a first end and a second end. The first end is smooth and the second end comprises bristles (18) extending outwardly (claim 5). There is a locking hub (24, 28) disposed at the first end of the shaft for and the hub is adapted to engage a power tool (36). The bristles are made from nylon (col. 2, lines 20-24) (claim 8). The shaft is comprised of two strands of intertwined steel (col. 2, lines 15-18) (claim 9). Woodhouse teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Woodhouse so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woodhouse ('747) in view of Kaufman (USPN 3582140).

Woodhouse teaches all the essential elements of the claimed invention however fails to teach a cloth material disposed on an end of at least some of said bristles. Kaufmann teaches a brush comprising a shaft (5) with a first end and a second end. The second end comprises bristles (4) extending outwardly. The shaft is comprised of two strands of intertwined steel (figure 4). The bristles are comprised of a cloth material (col. 2, lines 16-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bristles of Woodhouse with cloth bristles as taught by Kaufman since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Additionally, cloth bristles will prevent scratching and help to absorb cleaning solution if the brush is being used to clean a surface with cleaning solution.

Claims 13, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodhouse ('747) in view of Meyer ('592).

Woodhouse teaches all the essential elements of the claimed invention however fails to teach a protective coating on the second end of the shaft (claim 13) and a top element or wedge with a contoured face attached to the shaft for forcing the bristles in a direction away from the first end (claims 15-16). Meyer teaches a brush comprising a twisted shaft have a first plurality of bristles (12) extending outwardly. The shaft has a first end for attaching to a handle and a second end which is soldered (16) to bind the twisted shaft together. The soldered end has a contoured face attached to the shaft which forces a second plurality of bristles (18) in a direction

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away from the first end. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the second end of Woodhouse so that it comprises a soldered end as taught by Meyer to form a protective coat to prevent the shaft from scratching the surface to be cleaned (col. 2, lines 10-15). Additionally, having a plurality of second bristles angled in a direction away from the first end of the brush allows the brush to clean surfaces perpendicular to each other at the same time, such as the bottom and sides of a bottle (col. 2, lines 19-22).

Claims 5-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence (USPN 4850071).

Lawrence teaches a brush comprising a shaft (12) with a first end and a second end. The first end is smooth and the second end comprises bristles (20) extending outwardly (claim 5). There is a locking hub (14) disposed at the first end of the shaft for and the hub is adapted to engage a power tool (24). The shaft is comprised of two strands of intertwined steel (col. 2, lines 32-49) (claim 9). Lawrence teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawrence so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence (USPN 4850071) in view of Warner (USPN 5599225).

Lawrence discloses the claimed invention except for nylon bristles. Warner teaches a brush with nylon bristles. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use nylon bristles as taught by Warner, since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416. Additionally, nylon bristles would allow the brush to be used to clean devices that scratch easily, such as glass or plastic bottles.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence ('071) in view of Kaufman (USPN 3582140).

Lawrence teaches all the essential elements of the claimed invention however fails to teach a cloth material disposed on an end of at least some of said bristles. Kaufmann teaches a brush comprising a shaft (5) with a first end and a second end. The second end comprises bristles (4) extending outwardly. The shaft is comprised of two strands of intertwined steel (figure 4). The bristles are comprised of a cloth material (col. 2, lines 16-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bristles of Lawrence with cloth bristles as taught by Kaufman since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416. Additionally, cloth bristles will prevent scratching and help to absorb cleaning solution if the brush is being used to clean a surface with cleaning solution.

Claims 13, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence ('071) in view of Meyer ('592).

Lawrence teaches all the essential elements of the claimed invention however fails to teach a protective coating on the second end of the shaft (claim 13) and a top element or wedge with a contoured face attached to the shaft for forcing the bristles in a direction away from the first end (claims 15-16). Meyer teaches a brush comprising a twisted shaft have a first plurality of bristles (12) extending outwardly. The shaft has a first end for attaching to a handle and a second end which is soldered (16) to bind the twisted shaft together. The soldered end has a contoured face attached to the shaft which forces a second plurality of bristles (18) in a direction away from the first end. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the second end of Lawrence so that it comprises a soldered end as taught by Meyer to form a protective coat to prevent the shaft from scratching the surface to be cleaned (col. 2, lines 10-15). Additionally, having a plurality of second bristles angled in a direction away from the first end of the brush allows the brush to clean surfaces perpendicular to each other at the same time, such as the bottom and sides of a bottle (col. 2, lines 19-22).

Response to Arguments

Applicant's arguments, filed 5/30/07, with respect to Kaufmann, Glas and Meyer have been fully considered and are persuasive. The rejections of these references have been withdrawn.

Applicant's arguments filed 5/30/07, with respect to Warner, have been fully considered but they are not persuasive. Warner clearly teaches a brush that is to be attached to a power tool.

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The stem or locking hub of Warner is to be held in the chuck of a power tool (col. 2, lines 13-15). Therefore the rejections with respect to Warner is being maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Karls whose telephone number is 571-272-1268. The examiner can normally be reached on 7:00-4:30 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Shay L. Karls
Patent Examiner
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